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Note verbale dated 1 August 2016 from the Permanent Mission of Austria to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Austria to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1718 (2006) and, in reference to paragraph 40 of Security Council resolution 2270 (2016), has the honour to convey the attached implementation report (see annex).

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Annex to the note verbale dated 1 August 2016 from the Permanent Mission of Austria to the United Nations addressed to the Chair of the Committee

Report by Austria on the implementation of Security Council resolution 2270 (2016)

1. Austria and the other member States of the European Union have jointly implemented the additional restrictive measures against the Democratic People's Republic of Korea (DPRK) imposed by the Security Council in its resolution 2270 (2016) by taking the following common measures:[1]

(a) Council Decision (CFSP) 2016/319 of 4 March 2016, implementing the designation of additional persons and entities (travel ban and asset freeze);

(b) Commission Implementing Regulation (EU) 2016/315 of 4 March 2016 amending Council Regulation (EC) No. 329/2007 concerning restrictive measures against the Democratic People's Republic of Korea and adopted by the Council with a view to implementing article 6(2) of the Council Regulation in order to give effect to the asset freeze with regard to the newly designated persons and entities;

(c) Council Decision 2016/476/CFSP of 31 March 2016, which sets out the commitment of the European Union to implement all measures contained in Security Council resolution 2270 (2016) and provides the basis for accompanying measures specific to the European Union, within the scope of the resolution, notably:

(i) Extension of export and import prohibitions to any item (except food or medicine) that could contribute to the development of the operational capabilities of the DPRK armed forces;

(ii) Requirement to expel DPRK diplomats engaged in illicit activities: targets DPRK diplomats working on behalf or at the direction of a designated individual or entity, or of an individual or entity assisting in the evasion of sanctions or violating the provisions of Security Council resolutions, including exemptions;

(iii) Requirement to expel foreign nationals involved in illicit activities: targets foreign nationals working on behalf or at the direction of a designated individual or entity, or of an individual or entity assisting in the evasion of sanctions or violating the provisions of Security Council resolutions;

(iv) Requirement to close offices of designated entities and expel representatives: member States shall close the representative offices of designated entities and prohibit such entities, as well as individuals or entities acting for them or on their behalf from participating in joint venture or any other business arrangements;

(v) Ban on specialized training, including teaching or training in specific fields;

[1] All common measures are published in the *Official Journal of the European Union*.

(vi) Requirement to inspect DPRK cargo within or transiting through free trade zones or cargo that is being transported on DPRK-flagged aircraft or maritime vessels. In addition, the obligation to inspect is irrespective of whether there are reasonable grounds to suspect that the cargo contains prohibited items;

(vii) Requirement to ban DPRK chartering of vessels or aircraft and deregister vessels, including a prohibition on providing crew services;

(viii) Requirement to prohibit nationals from operating DPRK vessels/flying the DPRK flag;

(ix) Ban on flights of any aircraft suspected of carrying contraband, with the exception of landing for inspection;

(x) Prohibition of entering into ports of any vessel controlled by a designated entity or suspected of engaging in illicit activities;

(xi) Export ban on any item that could contribute to DPRK nuclear or ballistic programmes or other weapons of mass destruction programmes;

(xii) Ban on export from the DPRK of specified minerals like coal, iron, iron ore, gold, titanium ore, vanadium ore and rare earth minerals;

(xiii) Ban on aviation fuel exports to the DPRK like aviation gasoline, naphtha-type jet fuel, kerosene-type jet fuel and kerosene-type rocket fuel;

(xiv) Asset freeze on Government entities or those of the Worker's Party of Korea associated with illegal programmes or on individuals or entities acting on their behalf;

(xv) Prohibition on the opening and operation of new branches, subsidiaries and representative offices of DPRK banks;

(xvi) Obligation to close existing branches, subsidiaries or representative offices of DPRK banks within 90 days of the adoption of resolution 2270 (2016);

(xvii) Obligation to close existing representative offices, subsidiaries or banking accounts in the DPRK within 90 days of the adoption of resolution 2270 (2016);

(xviii) Extension of the prohibition on providing financial support for trade with the DPRK and on covering private financial support for trade if such financial support could contribute to illicit activities of the DPRK;

(d) Council Regulation (EU) 2016/682 of 29 April 2016 amending Regulation (EC) No. 329/2007 concerning restrictive measures against the Democratic People's Republic of Korea, which gives effect to the measures provided by Council Decision (CFSP) 2016/476 of 31 March 2016.

2. In addition to the common European Union measures, the Austrian authorities, within the scope of their national implementation competence, will apply the following Austrian legislation in implementing the restrictive measures against the Democratic People's Republic of Korea imposed by the Security Council:

(a) Sanctions Act 2010 (Federal Law Gazette I No. 36/2010, as amended);

(b) Foreign Trade Act (Federal Law Gazette I No. 26/2011, as amended), supplemented by the First Foreign Trade Regulation (Federal Law Gazette II No. 343/2011, as amended), the Second Foreign Trade Regulation (Federal Law Gazette II No. 418/2011, as amended) and the Third Foreign Trade Regulation (Federal Law Gazette II No. 6/2015, as amended);

(c) War Materials Act (Federal Law Gazette I No. 57/2001, as amended) and War Materials Regulation (Federal Law Gazette No. 624/1977);

(d) Foreign Exchange Act (Federal Law Gazette I No. 123/2003, as amended);

(e) Banking Act (Federal Law Gazette No. 532/1993, as amended).

3. With regard to restrictions on admissions (visa ban), Austria has the following national legislation which, together with Council Decision (CFSP) 2016/319 and Commission Implementing Regulation (EU) 2016/315, provides the basis for refusal of admission and denial of requests for a visa:

(a) Aliens Police Act 2005 (Federal Law Gazette I No. 100/2005, as amended);

(b) Settlement and Residence Act (Federal Law Gazette I No. 100/2005, as amended).

4. The above-mentioned European Union Council regulations are binding in their entirety and directly applicable in all member States of the European Union, including Austria. Council Regulation (EC) No. 329/2007, as amended, requires member States to determine the penalties applicable to infringements of their provisions. Penalties for violations of directly applicable European Union law are set out in the relevant sections of the above-mentioned Austrian legislation. Non-compliance may constitute a criminal offence punishable by up to five years of imprisonment or the payment of a fine of up to 360 times the daily rate (e.g., in the case of the Foreign Trade Act).